

## REMARKS

Claims 1-13 and 16 remain in the application.

The rejection of claim 6 under 35 USC 112, second paragraph of lacking antecedent support for the limitation "said two outer boards" is respectfully traversed. In the application Fig. 1 shows three boards, a middle board and two outer boards which are generally described in the Detailed Description on pages 8 through 11. In claim 6 set out below, the antecedent is shown in bold, thereby supporting recitation of "said two outer boards" (in italics).

6. A composite scaffolding plank as in claim 2, wherein said three wooden boards comprise a middle board and **two outer boards**;

said three wooden boards each having a wood grain direction; wherein

said middle board is oriented such that the direction of said wood grain of said middle board alternates against said wood grain direction of *said two outer boards*.

Withdrawal of the rejection is requested.

The rejection of claim 16 under 35 USC 103(a) over Anguera '191 is respectfully traversed. Anguera '191 combines green wood strips of varying length disposed in an upright position in a row with other green strips, thus describing the wood grain of each strip being aligned in the same direction for each strip (plank). Anguera '191 clamps the boards, drills a bore, moves the work piece and inserts a pin into a previously drilled hole. Anguera '191 uses pins with a square cross section and spiral threads.

Anguera '191 uses pins with a square cross section and spiral threads to pin the boards together, other than that, none of the other limitations of the present claims are

disclosed or suggested by the proposed combination. The limitation of fiber bending value of at least 2200 psi and a modulus of elasticity in the range of  $1.6 \times 10^6$  to  $1.8 \times 10^6$  are significant to the present invention and are recited in all of the claims, but are not discernable from any disclosure in the reference.

The examiner has failed to make out a *prima facie* case of obviousness here, additionally because he has used a legal conclusion as evidence. Inventions are obvious over references and the examiner has not cited any reference to support his legal conclusion of "obvious mechanical expedient" regarding the plank dimensions and wood properties. (See *In re Bezombes*, 164 USPQ 387, 391 (CCPA 1970). This resort to a cliched extension of the knowledge of one of ordinary skill in the art in the face of the total absence, even in non analogous art, to include the invention does not represent a proper basis for maintenance of the rejection of the present claims. Begging the issue by a term such as "obvious mechanical expedient" does not apprise applicant of the basis of the rejection. It may be an "obvious mechanical expedient" or similar connotation but how can this make it less of an invention? (*In re Bezombes, et al., supra*). Most inventions are "obvious mechanical expedients" arranged in a non obvious manner.

The rejection of claim 16 under 35 USC 103(a) over Larsen is respectfully traversed.

Larsen discloses a scaffolding with two adjacent planks having a pin extending there through the plank. According to the translation, "the surface elements comprise multiple planks arranged side by side and penetrated and held together by a transverse connecting iron at each end of the element" (page 2, third paragraph). No information is provided on the process of attaching the elements together. However, since the walkway is to be "assembled easily and quickly", the pins are loosely fitted into the boreholes, so they can

be removed and the system assembled elsewhere. This disclosure has no suggestion to any aspect of the present invention and is only of interest as "state of the art". The examiner's assertion that by binding the boards together the boards are held in compression, is totally unsupported by any disclosure in the reference. There is no art of record which would indicate that a pin (nail) driven into a board to bind the boards together places the boards in a compressed relationship. In order to obtain the compressed relationship recited in the present claims, the boards are compressed by the manufacturing machine, then pinned together while compressed. Larsen has the pins loosely fitted into the boreholes, so they can be removed and the system assembled elsewhere. This is the opposite from the present boards, which are made to permanently replace large single board scaffold planks.

The examiner's reliance on "obvious mechanical expedient", as discussed above does not apprise applicant of the basis of the rejection and is improper. See *In re Bezombes, et al., supra*.

The rejection of claims 1-5, 7-12 and 16 under 35 USC 103(a) over Larsen in view of Anguera '191 is respectfully traversed. Larsen is discussed above. Larsen has no suggestion to any aspect of the present invention and is only of interest as "state of the art". Relevant to the present claims, Anguera '191 uses pins with a square cross section and spiral threads to pin the boards together, other than that none of the other limitations of the present claims are disclosed or suggested by the proposed combination. Larsen is making boards which are the opposite from the present boards, which are made for permanent binding under compression to replace large single board scaffold planks. A claimed invention which involves doing what the reference tries to avoid is the very

antithesis of obviousness. *In re Buehler*, 185 USPQ 781(CCPA 1975).

The examiner alleges it would be obvious to use at least three of Anguera's pins "for compressively pinning his boards together" (Larsen's boards). This is improper, since the **only** disclosure of compressive pinning is found in the present application. Again the fiber bending strength and modulus of elasticity are only taught in the present application. The examiner's repeated reliance on "obvious mechanical expedient", as discussed above does not apprise applicant of the basis of the rejection and is improper. See *In re Bezombes, et al., supra*.

The rejection of claims 9-11 under 35 USC 103(a) over Larsen and Anguera '191 and further in view of Bouton is respectfully traversed. The failure of the proposed combination of Larsen in view of Anguera '191 is discussed above. Bouton which disclosed a clamping device that clamps around the boards in a scaffolding for quick assembly is not relevant to the present invention or the other art cited with it. It is state of the art. Furthermore claims 10 and 11 recite "comprise a first wooden board, a second wooden board and a third wooden board", not claim 8 or 9 and the claims are not limited to 3 boards. The point of the combination is obscure. The examiner's reliance on "obvious mechanical expedient", as discussed above does not apprise applicant of the basis of the rejection and is improper. See *In re Bezombes, et al., supra*.

The rejection of claims 6 and 13 under 35 USC 103(a) over Larsen, Anguera '191 and Bouton in further view of Anglehart (JPN 002) is respectfully traversed. The combination of Larsen, Anguera '191 and Bouton is discussed above. Bouton seems to be a "red herring", since it has no significance in regard to the present claims.

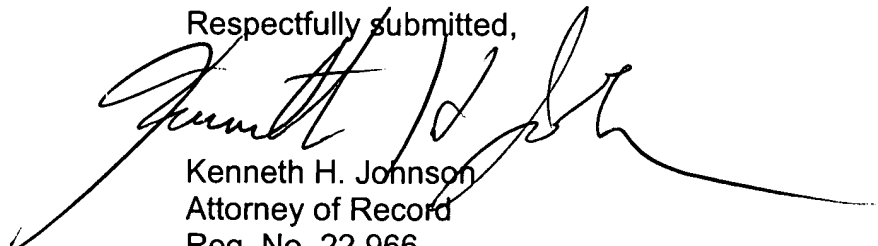
JPN 002 discloses making a door with high resistance to warping by contact bonding a plurality of tie plates arranged with the wood grain in opposite directions together. After the door is formed splines (Fig. 1) or pins (Fig. 2) can be added.

JPN 002 does not pin the plates together, but glues them together. There is no suggestion that gluing is the equivalent of the pinning and even though Fig 2 would seem to show pins or rods through the glued plates, these are shown as equivalent to the splines, which have no relevance in regard to the present invention or claims. In the present invention placing the wooden planks side by side in parallel abutment with the wood grains in alternating directions increases the strength (spec., page 5, ln. 19-22) and has nothing to do with warping. Thus there would be no motivation to employ any information or only selected portions thereof from JPN 002 with any of the other applied references.

The significant limitation of fiber bending value of at least 2200 psi and a modulus of elasticity in the range of  $1.6 \times 10^6$  to  $1.8 \times 10^6$  which are now recited in all claims, are not discernable from any disclosure in any reference or any combination of references.

It is submitted that the claims are clearly patentable over the cited art and applicant solicits allowance in due course.

Respectfully submitted,

A large, stylized handwritten signature in black ink, likely belonging to Kenneth H. Johnson, is written over the typed name and address.

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